Supreme Court, U.S.
FILED
AUG 1 1986
JOSEPH F. SPANIOL, JR.
CLERK

No. 86-116

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1986

D.A. RICKARDS, M.A. CUSTER, PAUL V. BELKIN AND JOHN S. SLEASMAN,
Petitioners,

VS.

CANINE EYE REGISTRATION FOUNDATION, INC.,
Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LAWRENCE ALIOTO
ALIOTO & ALIOTO
650 California Street
23d Floor
San Francisco, CA 94108
(415) 434-2100
Attorney for Petitioners

BOWNE OF SAN FRANCISCO, INC. • 190 NINTH ST. • S.F., CA 94103 • (415) 864-2300

8 pp

Contents of Supplemental Appendix

	Page
1. District Court order granting summary judgment in favor of CERF on its counterclaim	A-15
2. District Court judgment for treble damages and attorney's fees in favor of CERF on its counterclaim	A-16-18

The United States District Court
For the Northern District of California

No. C-70-3053-SAW(OEW)

D.A. Rickards, M.A. Custer, Paul V. Belkin and
John Sleaman,
Plaintiffs,

v.

Canine Eye Registration Foundation, Inc., (CERF)
Lawrence M. Trauner, Dolly B. Trauner, David E. Lipton,
Alan D. MacMillan, Dennis D. Olin, Randy Scagliotti
and Ralph C. Vierheller,
Defendants.

and Related Actions.

[Filed Feb. 21, 1984]

ORDER

Counterclaimant CERF moved the court for summary judgment against the counterclaim defendants only on its anti-trust claims. Counterclaim defendants opposed this motion and brought on a parallel motion for summary judgment on all of the claims raised by counterclaimants in their counterclaim.

The matters were fully briefed. Oral arguments were heard on February 17, 1984. After careful review, I must conclude that on the record as to which there is no factual dispute the CERF motion for summary judgment on its anti-trust claims must be and is granted. Counterclaim defendants motions are denied.

Counsel for CERF will prepare a form of judgment reflecting the foregoing rulings within 10 days of entry of this order.

IT IS SO ORDERED.

DATED: 2-21-84.

/s/ OWEN E. WOODRUFF, JR.
Owen E. Woodruff, Jr.
Chief United States Magistrate

The United States District Court
For the Northern District of California

No. C-70-3053-SAW(OEW)

D.A. Rickards, M.A. Custer, Paul V. Belkin and
John Sleasman,
Plaintiffs,

v.

Canine Eye Registration Foundation, Inc., (CERF)
Lawrence M. Trauner, Dolly B. Trauner, David E. Lipton,
Alan D. MacMillan, Dennis D. Olin, Randy Scagliotti
and Ralph C. Vierheller,
Defendants.

and Related Actions.

[Filed March 5, 1984]

PARTIAL FINAL JUDGMENT PURSUANT TO RULE 54(b)

In accordance with the provisions of 28 U.S.C. Section 636(c), the parties hereto waived their right to proceed before a Judge of the United States District Court and consented to have a United States Magistrate conduct all proceedings in the case, including trial and order of entry of judgment.

On November 17, 1981, the Court entered a "Partial Final Judgment Pursuant to Rule 54(b) Dismissing with Prejudice All Plaintiffs' Claims Against Defendants Dolly B. Trauner, Lawrence M. Trauner, Canine Eye Registration Foundation, Inc., Ralph C. Vierheller, Alan D. MacMillan, David E. Lipton, Randall H. Scagliotti and Dennis D. Olin." The order and judgment was affirmed by the Ninth Circuit Court of Appeals on May 3, 1983. The United States Supreme Court denied a petition for a writ of certiorari on November 28, 1983.

On February 17, 1984, the Court heard oral argument on cross motions for summary judgment directed to the counterclaims. Counterclaimant Canine Eye Registration Foundation, Inc. ("CERF") moved for summary judgment against the counterclaim defendants on its antitrust claim; counterclaim defendants

opposed this motion and moved for summary judgment to dismiss the claim and the claims of CERF and the Trauners for abuse of process and intentional interference with economic relationships. Having fully considered the briefs and arguments of counsel, on February 21, 1984, the Court granted CERF's motion and denied the motions of counterclaim defendants.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Counterclaim defendants D.A. Rickards, M.A. Custer, Paul V. Bilkin and John S. Sleasman violated Section One of the Sherman Act, 15 U.S.C. Section One, under both the Rule of Reason and *Per Se* standards.

2. Counterclaim defendants Rickards, Custer, Belkin and Sleasman violated Section Two of the Sherman Act, 15 U.S.C. Section Two, by engaging in a Conspiracy to Monopolize and an Attempt to Monopolize trade or commerce.

3. The lawsuit brought by Rickards, Custer, Belkin and Sleasman was baseless and a sham; it was also brought to further and as part of an overall scheme to violate the antitrust laws.

4. By reason of counterclaim defendants' violations of the antitrust laws, CERF sustained damage in the amount of $416,893.99, and in accordance with 15 U.S.C. Section 15, shall recover three times this amount and its reasonable attorney's fees.

5. CERF shall have and recover, jointly and severally, from counterclaim defendants Rickards, Custer, Belkin and Sleasman the sum of $1,250,681.90, and its reasonable attorney's fees for the prosecution of its counterclaim in the amount of $35,879.86. Statutory interest on the total judgment shall accrue at the rate of 10% from this date.

6. Pursuant to F.R.Civ.Pro., Rule 54(b), this Court expressly determines that there is no just reason for delay in entering a final, appealable judgment on CERF's counterclaim, and hereby directs the Clerk of the Court to enter forthwith this Partial Final Judgment.

7. Trial on counterclaimants' claims for abuse of process and intentional interference shall proceed as later ordered by this Court.

Dated: March 1, 1984.

/s/ OWEN E. WOODRUFF, JR.
Owen E. Woodruff, Jr.
Chief United States Magistrate